REMARKS/ARGUMENTS

Claims 1-32, 57-85, and 89-103 are pending in this application. Claims 1 and 57 are amended for clarity, while claims 57-85 and 89-103 are each amended to recite processor readable media rather than methods. New claim 104 is a method claim corresponding to claim 57. No new matter has been added.

CLAIM REJECTIONS UNDER 35 USC 103

Claims 1-27, 30-32, 57-77, 80-85 and 89-103 are rejected under 35 USC 103(a) as being unpatentable over the combination of Benati et al. (USP 5,748,764) and Malloy Desormeaux (USP 6,501,911). This rejection is respectfully traversed, although each of these claims has been amended for clarity. Each of these claims is allowable because no combination of Benati et al. and Malloy Desormeaux teaches or suggests all of the elements of Applicants' invention.

First, neither Benati et al. nor Malloy Desormeaux teaches or suggests any kind of analysis of a subsample representation of selected regions of a digitized image. Benati et al. merely teach correction of red eye at different resolutions. The detection phase 200 of Figure 2 of Benati et al. is set out in detail at Figure 3, while correction 300 or the "Fix phase" 300 of Figure 2 of Benati et al. is set out in detail at Figure 4. There is no teaching or suggestion by Benati et al. that any subsample respresentation is analyzed in the detection phase 200 nor in the fix phase 300 nor otherwise.

Second, Benati et al. merely disclose to correct or "fix" a red eye defect either at a same resolution as was used in the detection phase 200, or at a higher resolution or a lower resolution. There is no description of any analysis of a subsample representation of a digital image, where the subsample representation includes an eye region.

Third, neither Benati et al. nor Malloy Desormeaux teaches or suggests an analysis of a subsample representation of a digital image, particularly wherein a degree of

said subsampling is based upon complexity of calculation of a red-eye filter and on an analysis of meta-data information, and on data obtained from the camera relating to image processing analysis of a precapture image. In fact, neither Benati et al. nor Malloy Desormeaux teaches any analysis of any subsample representation of a digital image for detection or correction of a red eye defect, and certainly not to base a degree of subsampling on any of these recited parameters.

Claims 28 and 78 are rejected under 35 USC 103 based on the combination of Benati et al., Malloy Desormeaux, and USP 5,974,189 to Nicponski. Claims 28 and 78 are allowable as being ultimately based on claims 1 and 57, respectively, which are allowable for the reasons set forth above and because no combination of Benati et al., Malloy Desormeaux, and USP 5,974,189 to Nicponski teaches or suggests all of the features of claim 1 nor of claim 57.

Claims 29 and 79 are rejected under 35 USC 103 based on the combination of Benati et al., Malloy Desormeaux, and USP 5,847,714 to Naqvi et al. Claims 29 and 79 are allowable as being ultimately based on claims 1 and 57, respectively, which are allowable for the reasons set forth above and because no combination of Benati et al., Malloy Desormeaux, and USP 5,847,714 to Naqvi et al. teaches or suggests all of the features of claim 1 nor of claim 57.

NEW CLAIM

New claim 104 is allowable for the same reasons as amended claims 1 and 57.

It is submitted that the application in now in condition for allowance. If there are further questions or concerns, the Examiner is respectfully invited to call the undersigned attorney at 415-203-2782.

The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to **Deposit Account No. 50-4399**.

Respectfully submitted,

/Andrew Vernon Smith/

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